UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,173	06/27/2003	John Pope	1530	7790

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EXAMINER
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ART UNIT	PAPER NUMBER
2618	

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)
	10/609,173	POPE, JOHN
	Examiner	Art Unit	
	Dominic E. Rego	2684	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>20 July 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>1-18</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-303 (Rev. 7-05)   Advisory Action Before the Filing of an Appeal Brief   Part of Paper No. 20060725

Continuation of 11. does NOT place the application in condition for allowance because: in claims 1,9, and 11, applicant states Dajer fails to teach the combination of (i) receiving a digital signal that
defines bearer data for each of a plurality of channels, and control information for each of the plurality of channels, (ii) parsing from the control information a power level and a modulation frequency, the power level being one of a plurality of possible power levels and the modulation frequency being one of a plurality of possible modulation frequencies, and (iii) based on the power level generating an analog signal having a plurality of analog channels that defines the bearer data in the digital signal. The examiner disagrees. First of all, the applicant states "receiving a digital signal that defines" , not includes or contains, so when it says defines, it means that the definition of receiving a digitial signal is bearer data and control information for each of a plurality of channel which is not true all the time and it have variety of meaning in real world. The examiner appolizes for a mistake by saying that mobile switching center always establishes power level for each channel before it send it, so it's inherent. It should be "receiving a digital signal (Figure1, base station 109 or 110 receiving a digital signal from mobile switching center 104) that defines (i) bearer data (voice, voiceband data, or digital data signal) for each of a plurality of channels (Col 1, line 43-51); and (ii) control information (Col 1, line 41-51: For the forward link, digital signal processing block 202 performs processing of voice, voiceband data, or digital data signals from the land line network 102 and radio frequency (RF) modulation section 204 typically receives the processed signals from the digital signal processing block 202. So, before the bearer data transfers from 104 to 109-110, it always establishes power level for each channel before it send it, so it's inherent) for each of the plurality of channels (Col 1, line 51- Col 2, line 2) (ii) parsing from the control information, a power level and a modulation frequency, the power level (Col 1, line 41-51: For the forward link, digital signal processing block 202 performs processing of voice, voiceband data, or digital data signals from the land line network 102 and radio frequency (RF) modulation section 204 typically receives the processed signals from the digital signal processing block 202. So, before the bearer data transfer from 104 to 109-110, it always establishes power level for each channel before it send it, so it's inherent) being one of a plurality of possible power levels (Col 1, line 61-Col 2, line 2: Since multiple processed IS-95 signals may be transmitted in different frequency bands, it also have different power level in order to transmit the data) and the modulation frequency being one of a plurality of possible modulation frequencies (Col 1, line 62-Col 2, line 2: An IS-95 transmit portion having several IS-95 signals modulating M carriers and transmitted in M different frequency bands); based on the power level and the modulation frequency, responsively generating an analog signal having a plurality of analog channels that defines the bearer data in the digital signal; and transmitting the analog signal to the at least one wireless terminal (Col 1, line 27-col 2,line 18). Regarding claim 5, Dajer teaches (i) receiving, from a first network entity, bearer data (voice, voiceband data, or digital data signal) for a plurality of channels (Figure 1, base station 109 or 110, receives bearer data such as processing of voice, voice band data or digital data signals) (Col 1, line 36-46; Col 1, line 61-Col 2, line 18); (ii) establishing a modulation frequency for an analog signal that is to define the bearer data for the plurality of channels (Col 1, line 41-Col 2, line 2) and a power level (signal power) for each channel of bearer data (Col 1, line 41-51: For the forward link, digital signal processing block 202 performs processing of voice, voiceband data, or digital data signals from the land line network 102 and radio frequency (RF) modulation section 204 typically receives the processed signals from the digital signal processing block 202. So, before the bearer data transfer from 104 to 109-110, it always establishes power level for each channel before it send it, so it's inherent); and (iii) outputting to a second network entity (Figure 2, element 202 to 204), a digital signal defining the bearer data (Figure 2, processing of voice, voice band data or digital data signals from 202 to 204), the modulation frequency (Col 1, line 46-51) and power level (signal power); (iv) wherein outputting the bearer data (Figure 2, processing of voice, voice band data or digital data signals from 202 to 204) and the modulation frequency (Col 1, line 46-51), power level (signal power) comprises outputting to the second network (Figure 2, element 202 to 204), entity a frame (Col 1, line 22-26) defining the bearer data (Figure 2, processing of voice, voice band data or digital data signals from 202 to 204), the modulation frequency (Col 1, line 46-51), and power level (Col 1, line 41-51: For the forward link, digital signal processing block 202 performs processing of voice, voiceband data, or digital data signals from the land line network 102 and radio frequency (RF) modulation section 204 typically receives the processed signals from the digital signal processing block 202. So, before the bearer data transfer from 104 to 109-110, it always establishes power level for each channel before it send, so it's inherent). .

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